

# Memorandum to the City of Markham Committee of Adjustment

April 4, 2023

**File:** A/031/23  
**Address:** 96 Southdale Drive, Markham  
**Applicant:** Ru Ging Huang and Mujie Ye  
**Agent:** Gregory Design Group (Shane Gregory)  
**Hearing Date:** Wednesday, April 5, 2023

The following comments are provided on behalf of the East District team:

The Applicant is requesting relief from the following “Single Family Detached Dwelling (R1)” zone requirements of By-law 1229, as amended, as it relates to a proposed two-storey addition. The variance requested is to permit:

- a) **Amending By-law 99-90, Section 1.2 (vi):**  
a maximum floor area ratio of 78.93 percent, whereas the By-law permits a maximum floor area ratio of 45 percent;
- b) **Amending By-law 99-90, Section 1.2 (i):**  
a maximum building height of 10.70 metres, whereas the By-law permits a maximum building height of 9.80 metres;
- c) **Amending By-law 99-90, Section 1.2 (ii):**  
a detached dwelling to be comprised of three (3) storeys, whereas the By-law permits a maximum of two (2) storeys.

## BACKGROUND

### Property Description

The 613.14 m<sup>2</sup> (6,600 ft<sup>2</sup>) Subject Land is located on the north side of Southdale Drive, east of McCowan Road, and south of Highway 7 East (refer to Appendix “A” – Aerial Photo). The Subject Land is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings.

There is an existing 110.37 m<sup>2</sup> (1,188 ft<sup>2</sup>) one-storey detached dwelling on the Subject Land which was constructed in 1966, according to assessment records. Mature vegetation exists on the property including one large mature tree in the front yard.

### Proposal

The Applicant is proposing to construct a new partial one-storey addition at the rear of the existing bungalow and adding front and rear covered porches resulting in a total gross floor area of 483.95 m<sup>2</sup> (5,209 ft<sup>2</sup>) (refer to Appendix “B” – Plans).

### Official Plan and Zoning

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)

The Subject Lands are designated “Residential Low Rise”, which permits low rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines development criteria for the “Residential Low Rise” designation with respect to height, massing and setbacks. This criteria is established to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street. In

considering applications for development approval in a “Residential Low Rise” area, which includes variances, infill development is required to meet the general intent of these development criteria. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages, and driveways. Planning staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

#### Zoning By-Law 1229

The Subject Lands are zoned “Single Family Residential (R1)” under By-law 1229, as amended, which permits a single detached dwelling.

#### Residential Infill Zoning By-law 99-90

The Subject Lands are also subject to the Residential Infill Zoning By-law 99-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the character of existing neighbourhoods. It specifies development standards for building depth, garage projection, garage width, net floor area ratio, height, yard setbacks and number of storeys. The proposed development does not comply with the infill By-law requirements with respect to maximum floor area ratio, maximum building height, and maximum number of storeys.

#### **Zoning Preliminary Review (ZPR) Undertaken**

The Applicant has completed a Zoning Preliminary Review (ZPR) to confirm the initial variances required for the proposed development. The Applicant submitted revised drawings on December 30, 2022. The Applicant has not conducted a Zoning Preliminary Review for the revised drawings. Consequently, it is the owner’s responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development. If the variance request in this application contains errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the non-compliance.

#### **COMMENTS**

The *Planning Act* states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained; and
- d) The general intent and purpose of the Official Plan must be maintained.

#### **Increase in Maximum Floor Area Ratio**

The Applicant is requesting relief to permit a floor area ratio of 78.93 percent, whereas the By-law permits a maximum floor area ratio of 45 percent. The variance will facilitate the construction of a one-storey addition at the rear of the existing bungalow and the addition of two (2) covered porches at the front and the rear with a total gross floor area of 483.95 m<sup>2</sup> (5,209 ft<sup>2</sup>), whereas the By-law permits a dwelling with a maximum floor area of 275.91 m<sup>2</sup> (2,969.87 ft<sup>2</sup>). This represents an increase of approximately 204.04 m<sup>2</sup> (2,196.27 ft<sup>2</sup>).

Floor Area Ratio is a measure of the interior square footage of the dwelling as a percentage of the net lot area however; it is not a definitive measure of the mass of the dwelling.

The building layout meets all other zoning provisions (such as setbacks and lot coverage) that establish the prescribed building envelope, which ensures the proposed dwelling will be in keeping with the intended scale of residential infill developments for the neighbourhood.

The by-law defines both cellar and basement. If more than half of the floor to ceiling height is above the established grade as defined, that lower level is included in the FAR calculation as a result, for 96 Southdale Drive. More than half of the existing basement and garage is located above established grade which is unique as most other homes have their garages and basements located below the established grade. Including the existing basement and garage in the FAR calculation (which is not typical) therefore increases the FAR beyond a FAR which is typically seen.

Excluding the lower level, the first and second storeys of the house have a floor area ratio of 49.10 percent, whereas the By-law permits a maximum floor area ratio of 45 percent. This represents a total gross floor area of 301.10 m<sup>2</sup> (3,241 ft<sup>2</sup>), and an increase of approximately 25.19 m<sup>2</sup> (271 ft<sup>2</sup>). This is more indicative of what the FAR would be compared to other homes.

Staff have no concerns with the proposed FAR given the unique condition of the existing house and calculation of FAR. The FAR of the first and second storeys (which is what would typically be included in a FAR calculation) is 49.1% which is a minimal increase from what is permitted and would not have any impact on the street as the front of the house and massing on the street is in part due to the lower level being above grade, and the addition of a front covered porch and second floor addition.

#### **Increase in Maximum Building Height**

The Applicant is requesting relief to permit a maximum building height of 10.70 metres (35.10 ft), whereas the By-law permits a maximum building height of 9.80 m (31.82 ft). This represents an increase of 0.9 m (2.95 ft).

Staff are of the opinion that the proposed maximum building height is minor and would not impact the street and therefore have no concern with the requested variance.

#### **Increase in Maximum Number of Storeys**

The Applicant is requesting relief to permit a maximum number of three storeys for a single-family detached dwelling, whereas the By-law permits a maximum number of two storeys.

Based on the grading information received to date, the variance is entirely attributable to the lower level [basement] which is more than half its volume above established grade, therefore it is counted as one storey which is not typical as the basement level and garage of most homes are located below grade. Given this unique condition and the exception of the addition of a front porch which will have no impact on the street, Staff are of the opinion that the proposed variance meets the four tests.

### **Tree Protection and Compensation**

As noted previously, the Subject Lands contain mature vegetation and large mature trees. During the review of the application, the City's Tree Preservation Technician indicated concern with potential injury to the mature neighbouring tree at 94 Southdale Drive and requested that advanced exploration and root assessment be completed to the Amur Maple (Tree 9) growing 40 cm east of the interior side lot line to eliminate injury to this tree due to the location of the rear covered porch.

The Applicant confirmed that the footings for the rear covered porch are sono-tube with an 18" 'Bigfoot' base and will not cause injury to the tree.

Staff recommend that the tree related conditions, as outlined in Appendix "C", be adopted by the Committee to ensure the Applicant installs the appropriate tree protection barriers, if necessary. Staff note the Applicant is required to apply for and obtain a tree permit from the City for any proposed injury to, or removal of any trees that have a diameter at breast height (DBH) of 20.0 cm (7.87 in) or more on the subject property or neighbouring properties. Further mitigation through these processes may also be required to ensure the protection of certain trees is achieved.

### **PUBLIC INPUT SUMMARY**

As of April 4, 2023 the City received one letters expressing concerns over floor area ratio and height. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

### **CONCLUSION**

Planning Staff have reviewed the application with respect to Section 45(1) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance request meets the four tests of the *Planning Act* and have no objection. Staff recommend that the Committee consider public input in reaching a decision.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

Please refer to Appendix "C" for conditions to be attached to any approval of this application.

PREPARED BY:



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Hussnain Mohammad, Planner, Zoning and Special Projects

REVIEWED BY:



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Stacia Muradali, Development Manager, East District

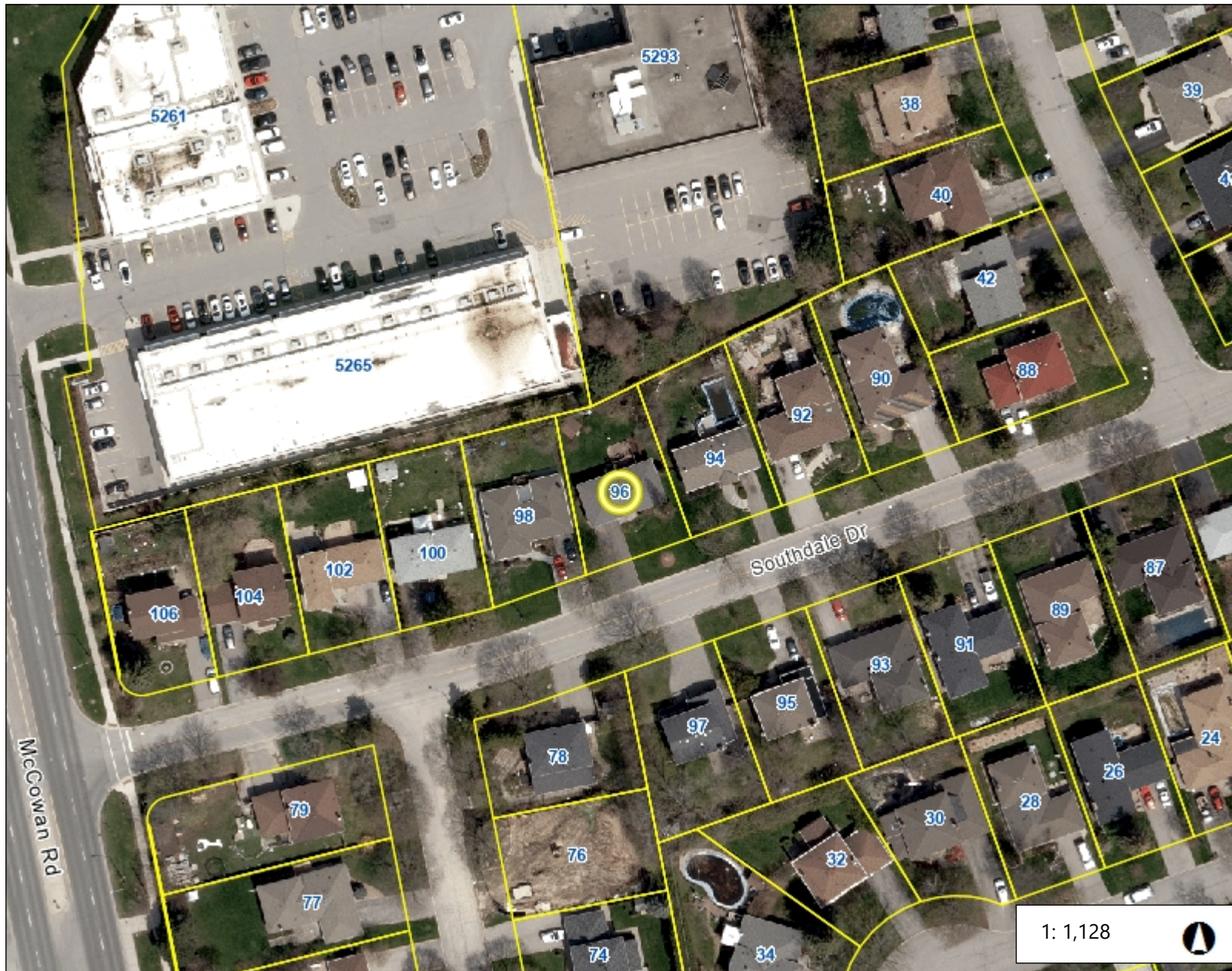
**APPENDICES**

Appendix "A" – Aerial Context Photo

Appendix "B" – Plans

Appendix "C" – A/031/23 Conditions of Approval





Legend

- Parcel Overlay
- Parcel
- Park Facility
- Parks
- Under Development
- <all other values>

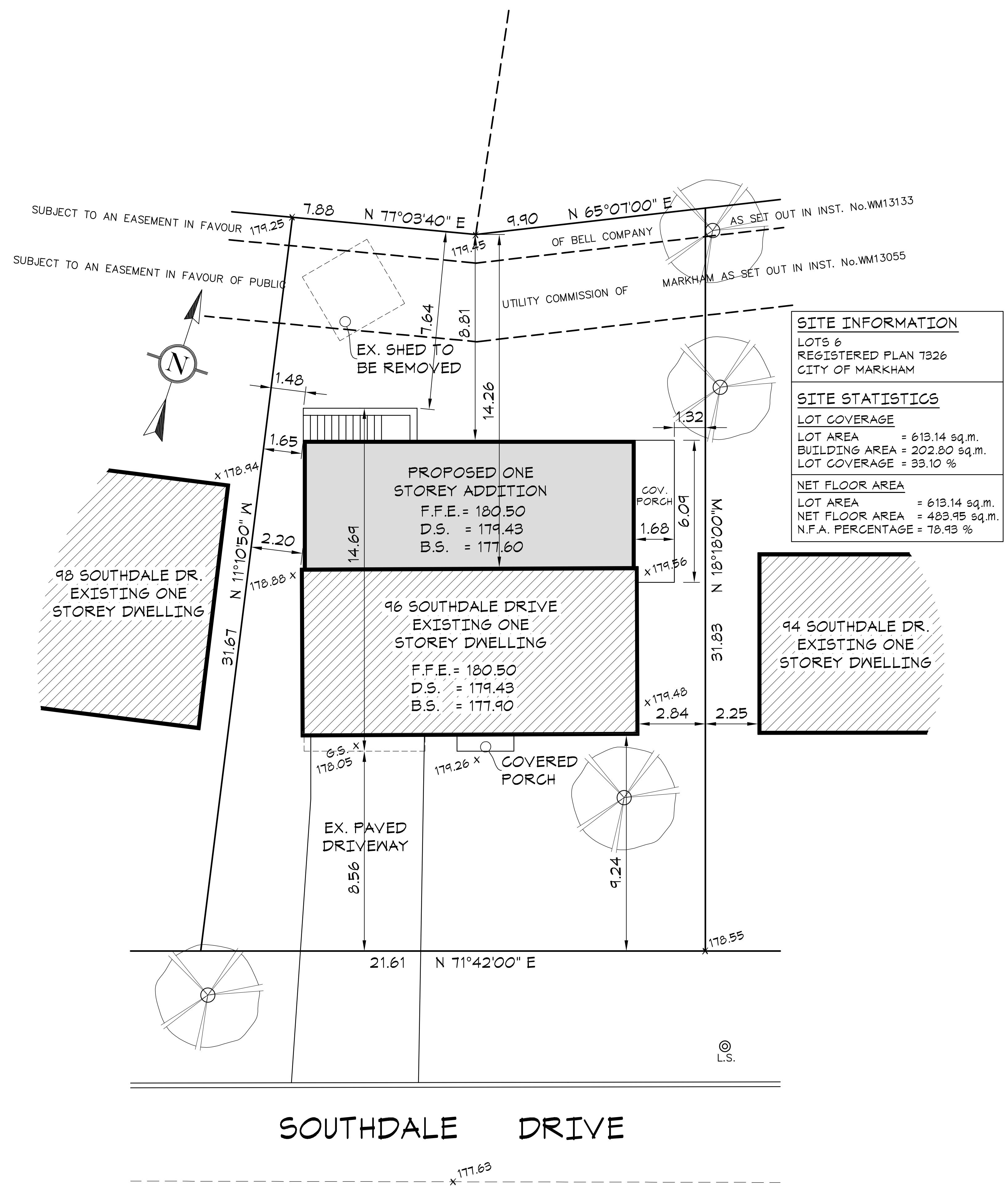
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57.3 0 28.65 57.3 Meters

Notes





**GENERAL NOTES:**

ALL CONSTRUCTION IS TO CONFORM TO SECTION "4" OF THE ONTARIO BUILDING CODE (LATEST EDITION).

CONTRACTOR SHALL CHECK AND VERIFY ALL NOTES AND DIMENSIONS.

DO NOT SCALE DRAWINGS.

OWNER / CONTRACTOR / DESIGNER IS RESPONSIBLE TO RE-CLAIM AND DESTROY ALL PREVIOUS AND UN-REVISED COPIES OF THIS DRAWING.

THESE DRAWINGS ARE THE PROPERTY OF THE GREGORY DESIGN GROUP AND / OR ITS CLIENTS ONLY.

BUILDING PERMITS TO BE OBTAINED PRIOR TO COMMENCING CONSTRUCTION.

REVISIONS AND DATA	DATE

I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of Division C, of the Building Code. I am qualified, and the firm is registered, in the appropriate classes/categories.

Individual B.C.I.N. - 25025  
 Firm B.C.I.N. - 30506

Russ Gregory  
 NAME SIGNATURE

**PROJECT TITLE**

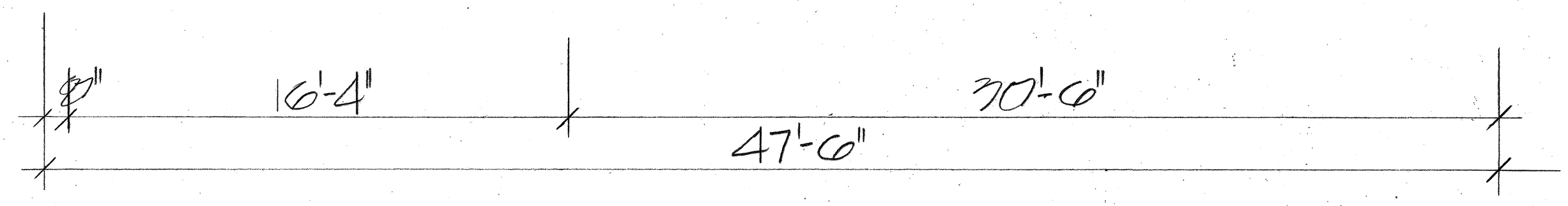
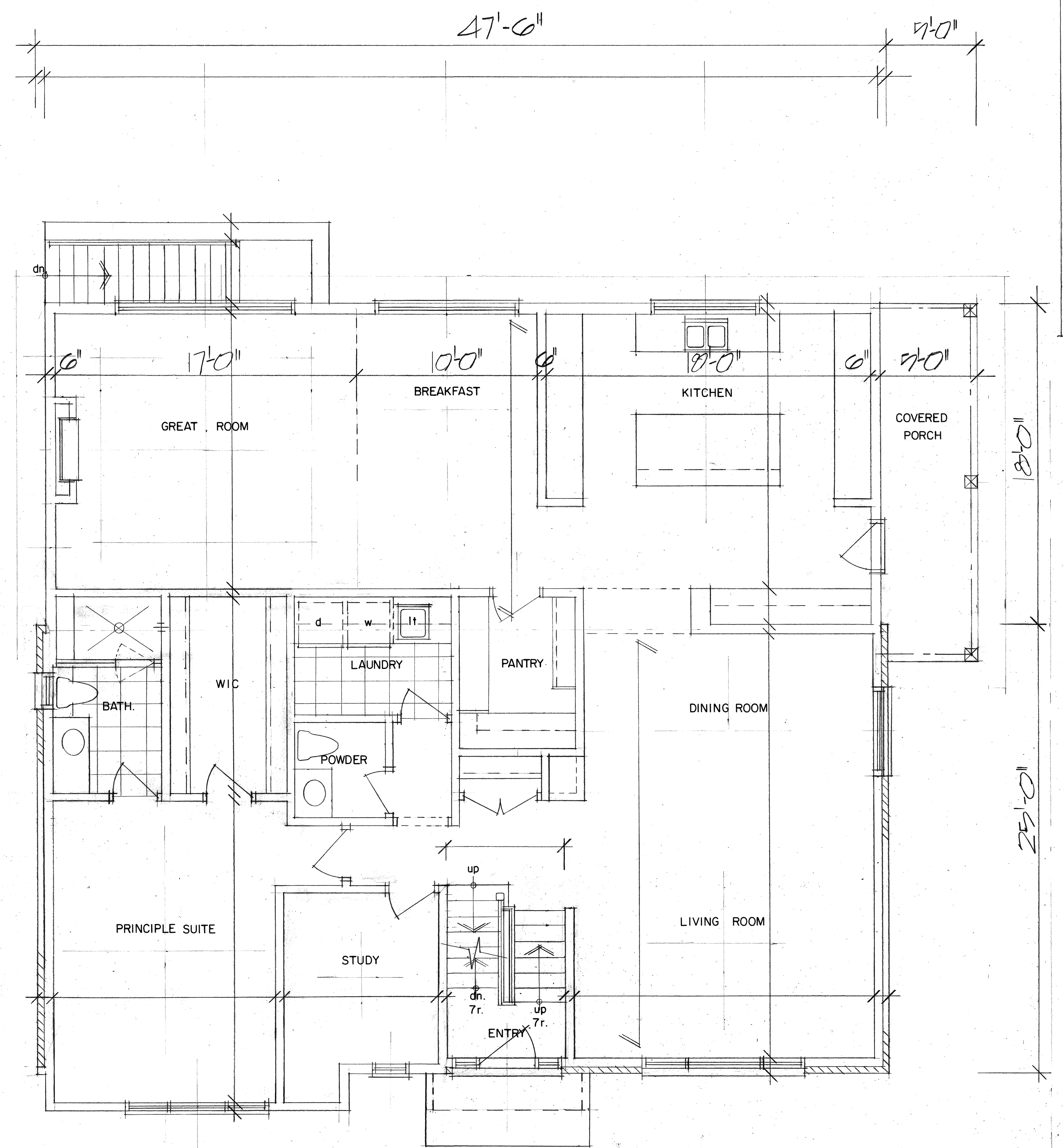
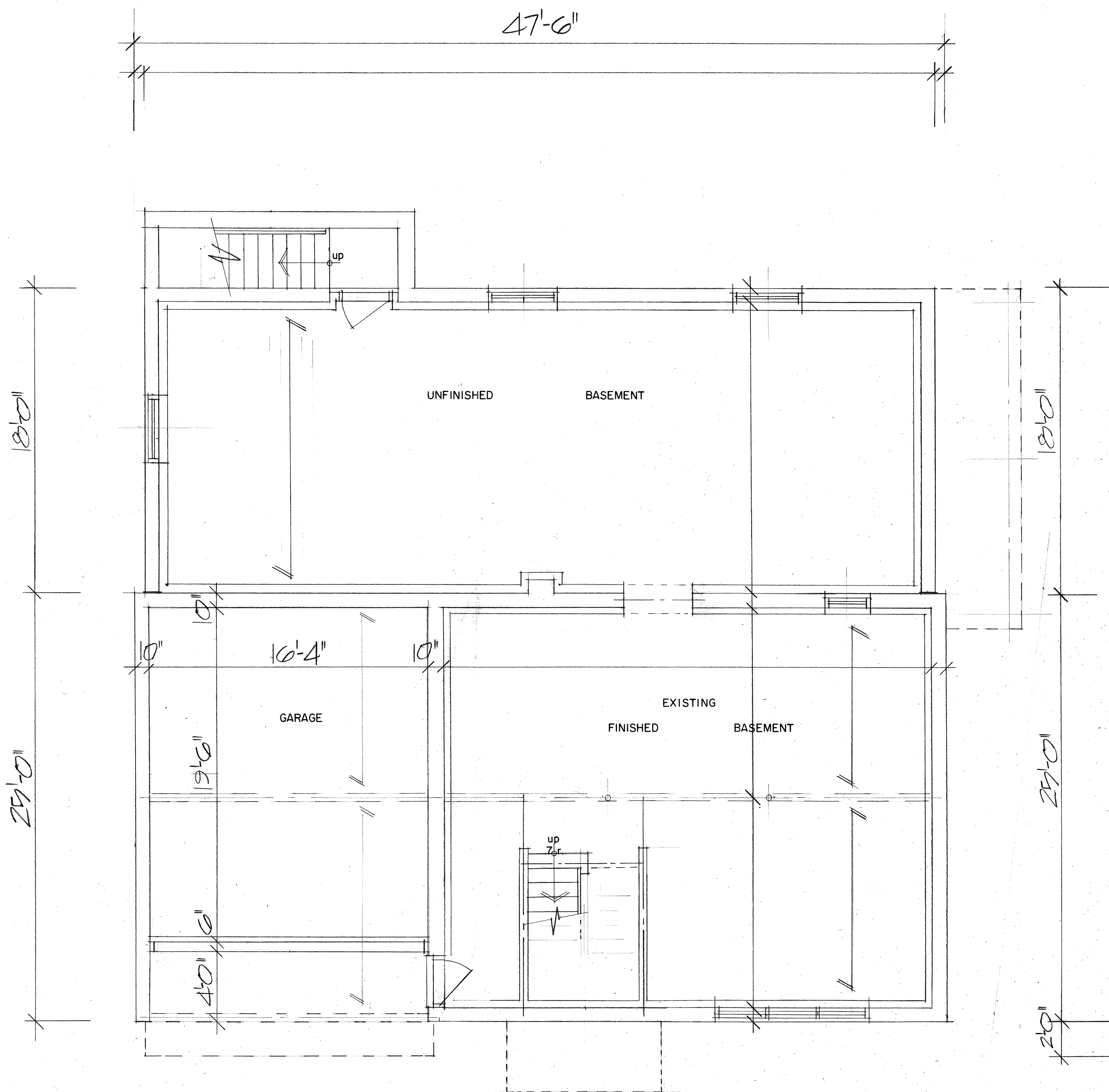
**PROPOSED ADDITION  
 96 SOUTHDALE DRIVE  
 CITY OF MARKHAM**

**THE GREGORY  
 DESIGN GROUP**

16 CHURCH STREET  
 MARKHAM, ONTARIO L3P 2L6  
 416-520-0978  
 shane@gregorydesigngroup.net

<b>SCALE</b> 1:100	<b>DATE</b> 03/17/23
<b>PROJECT NUMBER</b>	<b>SHEET NUMBER</b> <b>SP-1</b>
<b>DRAWN BY</b> S.Gregory	
<b>CHECKED BY</b> R.G.	





**BASEMENT PLAN**

**PROPOSED**  
 FLOOR AREA (NFA) OF GARAGE = 2180 SQFT

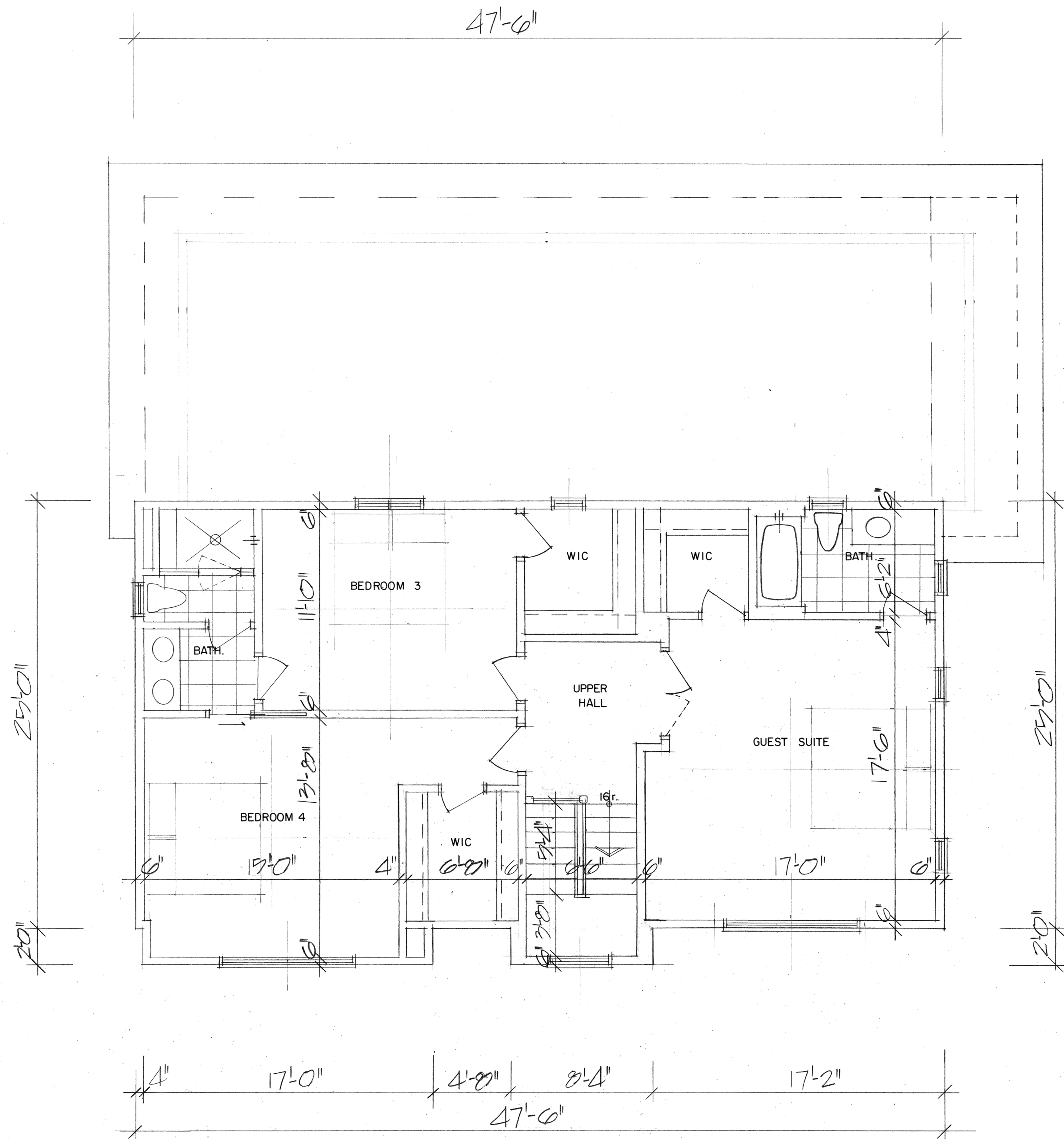
NET FLOOR AREA	
BASEMENT	= 2180 SQFT (201.7 M <sup>2</sup> )
GROUND FLOOR	= 2067 " " (192.0 M <sup>2</sup> )
SECOND FLOOR	= 1174 " " (109.1 M <sup>2</sup> )
TOTAL	= 5421 " " (502.8 M <sup>2</sup> )

**GROUND FLOOR PLAN**

**PROPOSED**  
 EXIST'G GROUND FLOOR AREA = 1180 SQFT  
 PROPOSED ADDITION = 879 " "  
 NET FLOOR AREA = 2067 " "  
 BUILDING AREA = 2183 " "

<b>PROJECT:</b> <b>PROPOSED RENOVATIONS</b> <b>THE HUANG RESIDENCE</b> <b>96 SOUTHDALE DR.</b> <b>CITY OF MARKHAM</b>	<small>I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of Division C of the Building Code, I am qualified, and the firm registered in the appropriate classification categories.</small> <small>INDIVIDUAL B.C.I.N. - 20825</small> <small>FIRM B.C.I.N. - 30506</small>	<b>DRAWN:</b> <b>R. GREGORY</b> <b>DATE:</b> <b>2/1/23</b>
	<small>NAME</small> Russ Gregory <small>SIGNATURE</small>	<b>SCALE:</b> <b>1/4"=1'-0"</b>
<b>THE GREGORY DESIGN GROUP</b> 16 CHURCH STREET MARKHAM, ONTARIO, L3P 2L6 (416) 720-4667 russ@gregorydesigngroup.net	<b>GENERAL NOTES:</b> <small>All construction is to conform to section "10" of the Ontario Building Code (latest edition).</small> <small>Contractor shall check and verify all notes and dimensions.</small> <small>Do not scale drawings.</small> <small>Owner/contractor/designer is responsible to re-claim and destroy all previous and un-revised copies of this drawing and/or to clients only.</small> <small>These drawings are the property of the Gregory Design Group and shall not be used for any other project.</small> <small>Building permits should be obtained prior to commencing construction.</small>	<b>PROJECT NO.:</b> <b>2421-22</b> <b>DRAWING NO.:</b> <b>A-1</b>



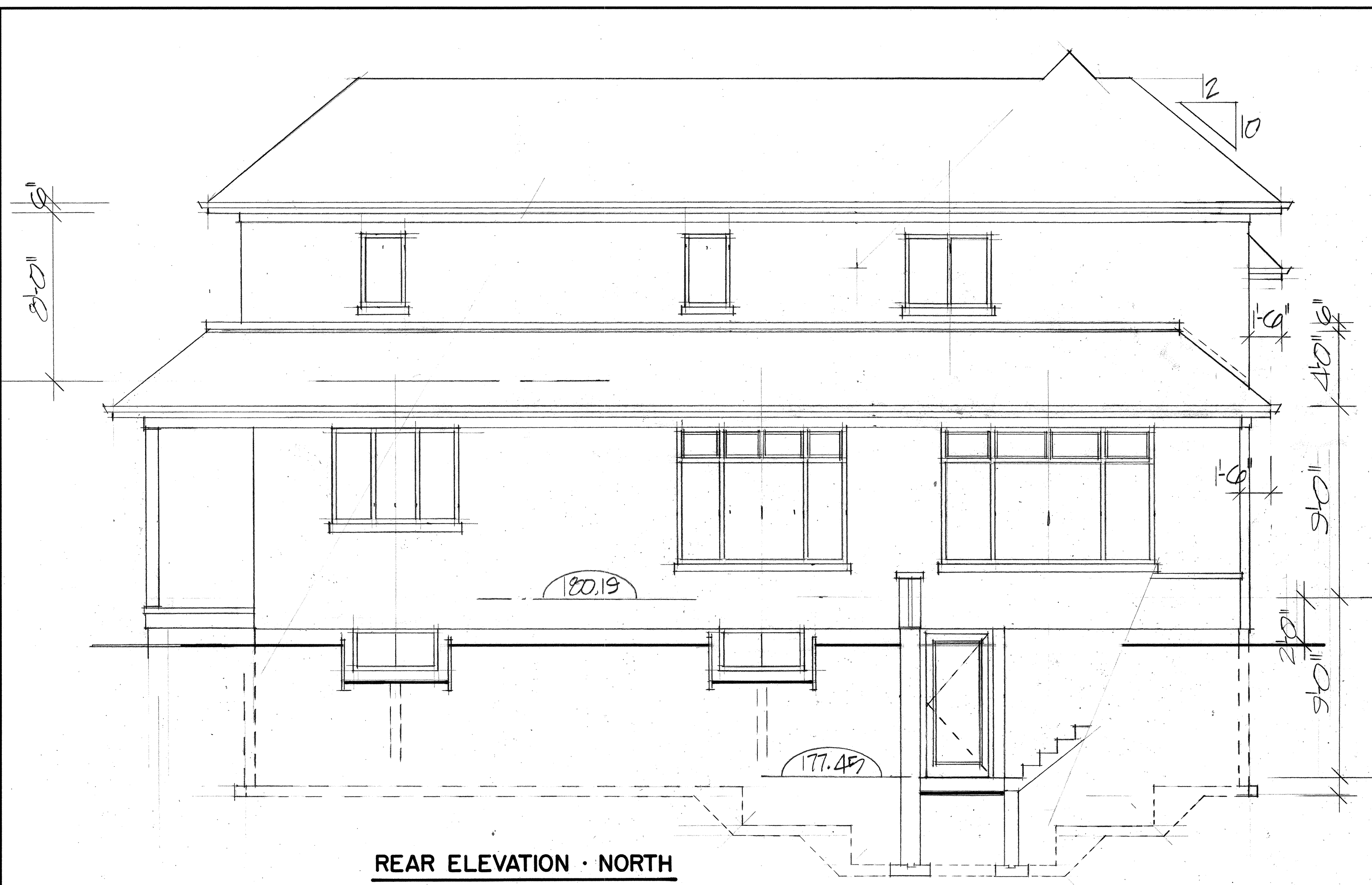


**SECOND FLOOR PLAN**

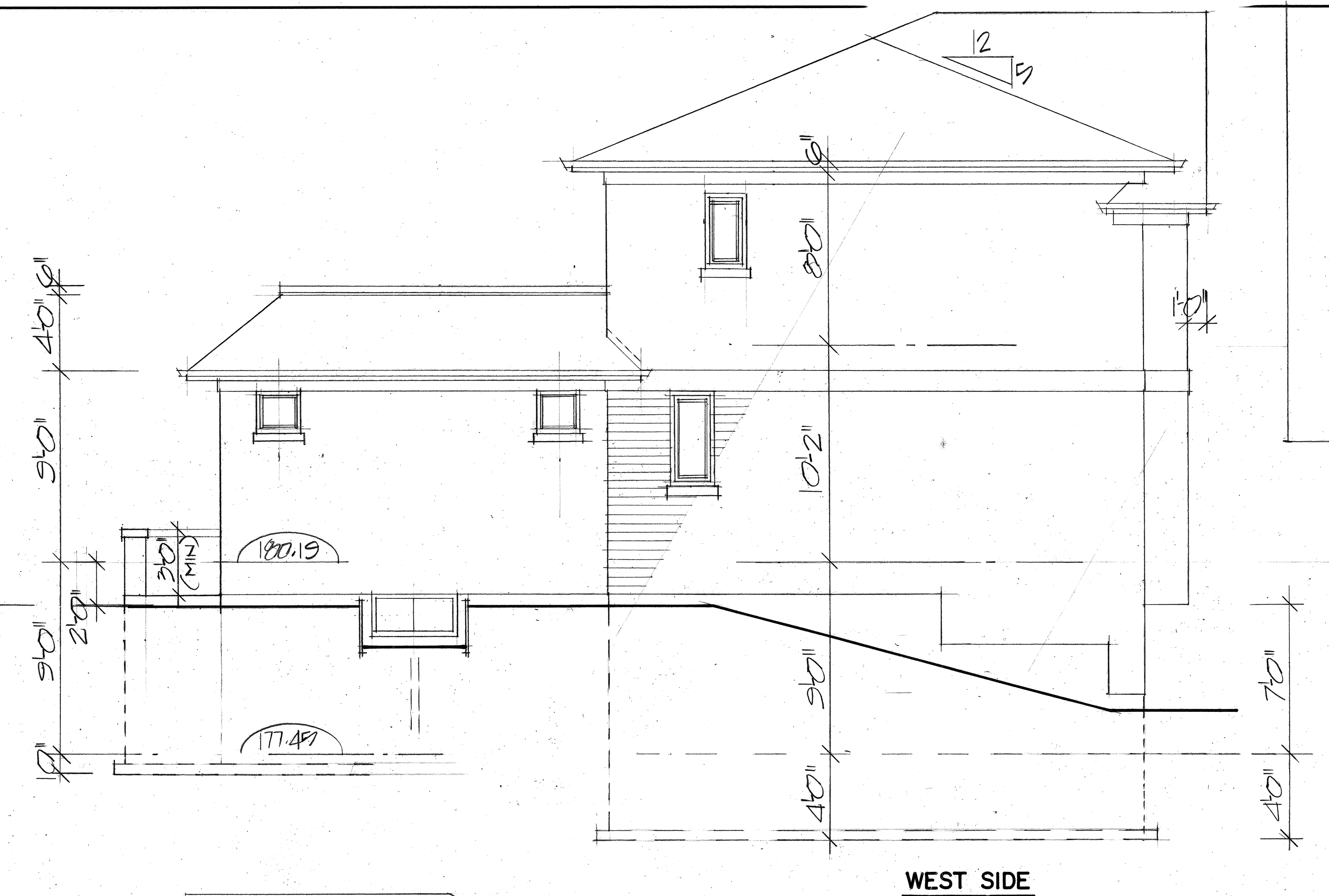
SECOND FLOOR AREA = 1230 SQ FT  
 OPEN SPACE = 90 " "  
 NET FLOOR AREA = 1174 " "

<b>PROJECT:</b> PROPOSED RENOVATIONS	I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of Division C of the Building Code, I am qualified, and the firm registered in the appropriate class/categories. INDIVIDUAL B.C.I.N. - 25825 FIRM B.C.I.N. - 30506	<b>DRAWN:</b> R. GREGORY DATE:
	Russ Gregory NAME SIGNATURE	SCALE: 1/4"=1'-0"
<b>THE GREGORY DESIGN GROUP</b> 16 CHURCH STREET MARKHAM, ONTARIO, L3P 2L6 (416) 720-4667 russ@gregorydesigngroup.net	<b>GENERAL NOTES:</b> All construction is to conform to section "M" of the Ontario Building Code (latest edition). Contractor shall check and verify all notes and dimensions. Do not scale drawings. Owner/contractor/designer is responsible to re-claim and destroy all previous and un-revised copies of this drawing and/or its clients only. These drawings are the property of the Gregory Design Group and/or its clients only. Building permits should be obtained prior to commencing construction.	<b>PROJECT NO.:</b> 2421-22 <b>DRAWING NO.:</b> A-2





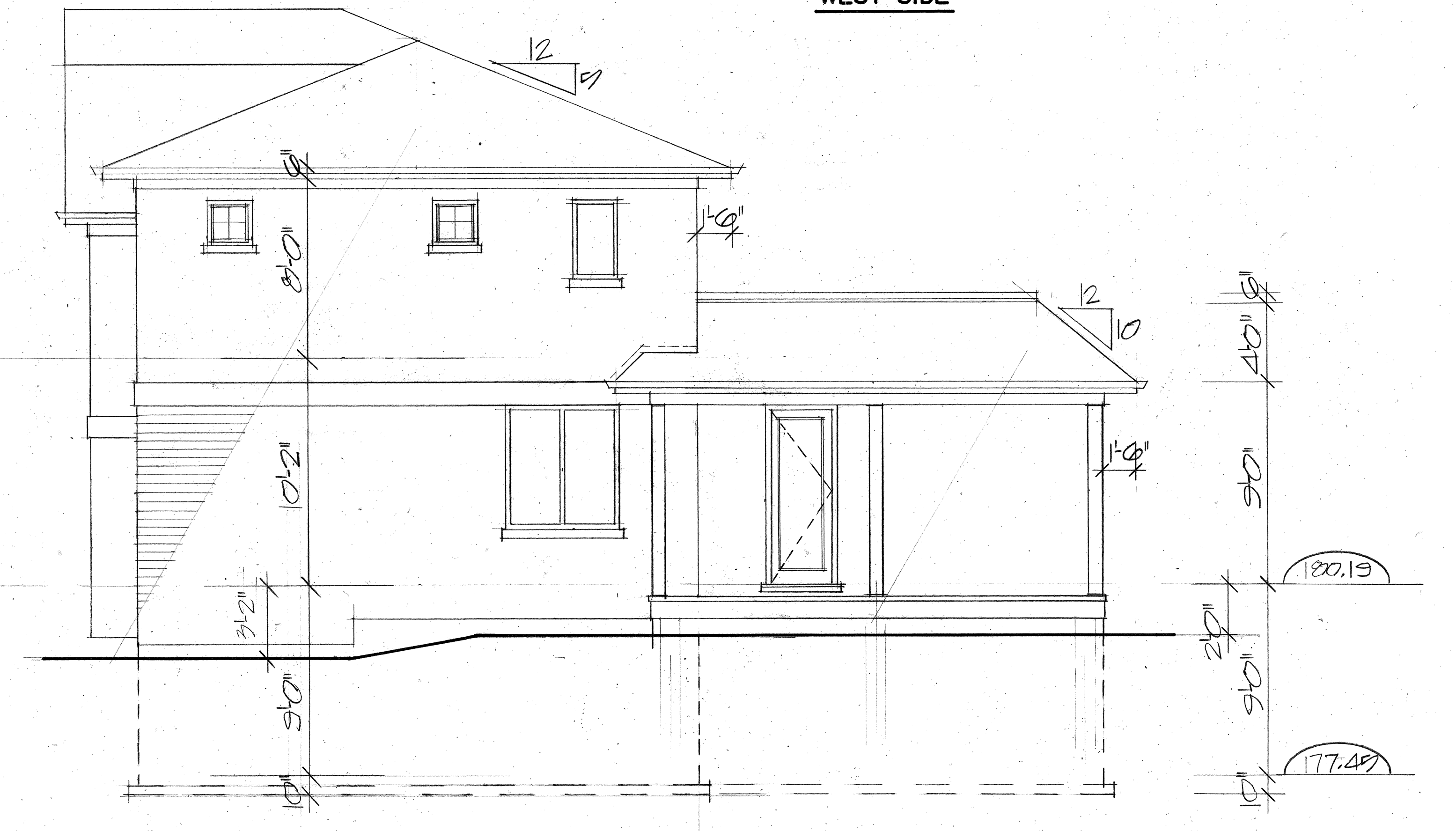
**REAR ELEVATION · NORTH**



**WEST SIDE**



**FRONT ELEVATION · SOUTH**



**EAST SIDE**

<b>PROJECT:</b> PROPOSED RENOVATIONS  <b>THE GREGORY DESIGN GROUP</b> 16 CHURCH STREET MARKHAM, ONTARIO, L3P 2L6 (416) 720-4667 russ@gregorydesigngroup.net	I review and take responsibility for the design work on behalf of a firm registered under Subsection 3.2.4 of Division C of the Building Code, I am qualified, and the firm registered in the appropriate classification category.  INDIVIDUAL B.C.I.N. - 25629 FIRM B.C.I.N. - 30506  Russ Gregory NAME SIGNATURE	<b>DRAWN:</b> R. GREGORY <b>DATE:</b>  <b>SCALE:</b> 1/4"=1'-0"
	<b>GENERAL NOTES:</b> All construction to conform to section 9* of the Ontario Building Code (latest edition). Contractor shall check and verify all notes and dimensions. Do not scale drawings. Owner/contractor/designer is responsible to re-claim and destroy all previous and un-revised copies of this drawing. These drawings are the property of the Gregory Design Group and/or its clients only. Building permits should be obtained prior to commencing construction.	
		<b>PROJECT NO.:</b> 2421-22 <b>DRAWING NO.:</b> <b>A-3</b>



**Appendix B**

SURVEYOR'S REAL PROPERTY REPORT  
 PART 1 - PLAN OF SURVEY OF  
 LOT 6  
 REGISTERED PLAN 7326  
 CITY OF MARKHAM  
 REGIONAL MUNICIPALITY OF YORK  
 SCALE 1:200

File: 23.118194.000.00.MNV

Date: 04/04/23

MM/DD/YY



MANDARIN SURVEYORS LIMITED, O.L.S. ©

METRIC

DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

**LEGEND**

- DENOTES MONUMENT SET
- DENOTES MONUMENT FOUND
- SIB DENOTES STANDARD IRON BAR
- IB DENOTES IRON BAR
- ØIP DENOTES IRON PIPE
- RP DENOTES REGISTERED PLAN 7326
- P1 DENOTES PLAN OF SURVEY BY R.G. McKIBBON LTD., O.L.S. DATED APRIL 12, 1993
- PIN DENOTES PROPERTY IDENTIFIER NUMBER
- M DENOTES MEASURED
- N,S,E,W DENOTES NORTH, SOUTH, EAST, WEST
- C.L.F. DENOTES CHAIN LINK FENCE
- B.F. DENOTES BOARD FENCE
- 1137 DENOTES R.G. McKIBBON LTD., O.L.S.
- OU DENOTES ORIGIN UNKNOWN
- NI DENOTES NOT IDENTIFIABLE
- D.S. DENOTES FINISHED SILL ELEVATION AT ENTRY
- CONC. DENOTES CONCRETE
- OHW DENOTES OVERHEAD WIRE
- ⊙U.P. DENOTES UTILITY POLE
- W.V. DENOTES WATER VALVE
- ⊙F.H. DENOTES FIRE HYDRANT
- ⊙M.H. DENOTES MAN HOLE
- ⊙C.B. DENOTES CATCH BASIN
- ⊙ DENOTES CONIFEROUS TREE
- ⊙ DENOTES DECIDUOUS TREE

ALL TIES TO CONCRETE FOUNDATION, UNLESS NOTED OTHERWISE. BEARINGS SHOWN HEREON ARE ASTRONOMIC AND ARE REFERRED TO THE NORTHERLY LIMIT OF SOUTHDALE DRIVE AS SHOWN ON REGISTERED PLAN 7326, HAVING A BEARING OF N71° 42' 00"E.

**BENCHMARK NOTE**

ELEVATIONS SHOWN HEREON ARE GEODETIC AND ARE REFERRED TO THE CITY OF MARKHAM BENCHMARK No.092883050, HAVING AN ELEVATION OF 174.620 METRE. THE BENCHMARK IS LOCATED AT WEST SIDE MCCOWAN ROAD OPPOSITE SOUTHDALE DRIVE.

THIS REPORT WAS PREPARED FOR JIM HUANG AND THE UNDERSIGNED ACCEPTS NO RESPONSIBILITY FOR ITS USE BY OTHER PARTIES.

**PART 2 (SURVEY REPORT)**

1. REGISTERED EASEMENTS AND/OR RIGHT OF WAYS: SUBJECT TO AN EASEMENT IN FAVOUR OF BELL CANADA AS SET OUT IN INST. No.WM13133; SUBJECT TO AN EASEMENT IN FAVOUR OF PUBLIC UTILITY COMMISSION OF MARKHAM AS SET OUT IN INST. No. WM13055.
2. ADDITIONAL COMMENTS: NOTE THE LOCATION OF THE FENCES AROUND THE NORTHERLY, WESTERLY AND EASTERLY LIMITS OF THE SUBJECT PROPERTY. NOTE ALSO THE LOCATION OF UTILITY POLE, POLE ANCHOR AND OVERHEAD WIRE.
3. THIS PLAN DOES NOT CERTIFY COMPLIANCE WITH ZONING BY-LAWS.

**SURVEYOR'S CERTIFICATE**

- I CERTIFY THAT:
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
  2. THE SURVEY WAS COMPLETED ON THE 2nd DAY OF JANUARY, 2023

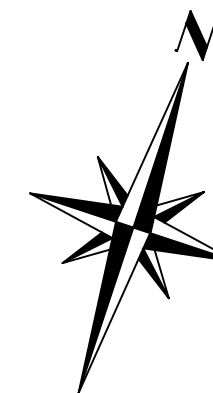
JANUARY 4, 2023  
DATE

Z. ZENG  
ONTARIO LAND SURVEYOR

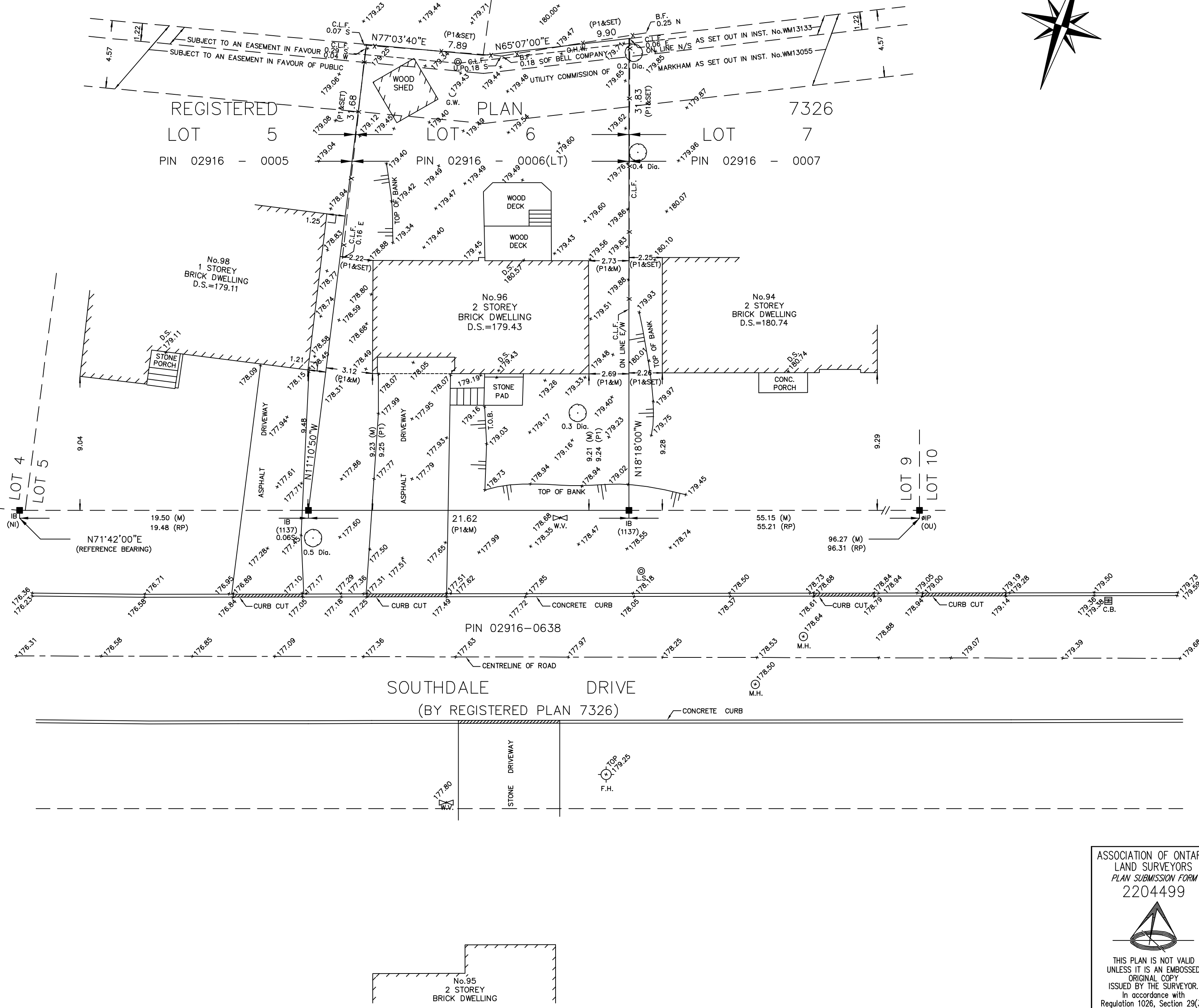
**MANDARIN SURVEYORS LIMITED**

ONTARIO LAND SURVEYOR CANADA LANDS SURVEYOR  
 WWW.MANDARINSURVEYOR.COM  
 2400 MIDLAND AVENUE #121 PHONE: (647)430-1366 FAX: (647)799-4068  
 TORONTO, ONTARIO, M1S 1X7 E-MAIL: MANDARINSURVEYOR@GMAIL.COM

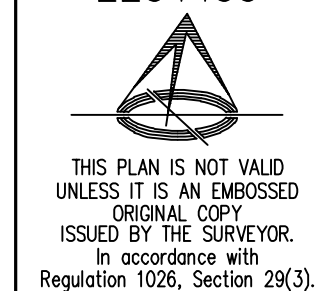
SURVEY BY: S.Z. CAD No: 22-636SRPR JOB No: 2022-636



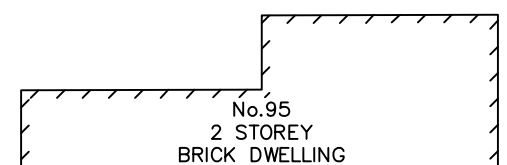
PART OF  
 CONCESSION  
 PIN 02916 - 1544  
 LOT 10  
 PIN 02916 - 1539



ASSOCIATION OF ONTARIO  
 LAND SURVEYORS  
 PLAN SUBMISSION FORM  
 2204499



THIS PLAN IS NOT VALID UNLESS IT IS AN EMBOSSED ORIGINAL COPY ISSUED BY THE SURVEYOR. In accordance with Regulation 1026, Section 29(3).



**APPENDIX “C” – A/031/23 – 96 Southdale Drive**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/031/23**

1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as Appendix “B” to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction;
3. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City’s Streetscape Manual (2009), as amended, to be reviewed and approved by the City, and that that Secretary Treasurer receive written confirmation from Tree Preservation Technician or Director of Operations that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan;
4. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City’s Streetscape Manual, including street trees, in accordance with the City’s Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation Technician or Director of Operations; and
5. That tree replacements be provided and/or tree replacement fees be paid to the City if required in accordance with the Tree Assessment and Preservation Plan, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Tree Preservation Technician or Director of Operations.

CONDITIONS PREPARED BY:



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Hussnain Mohammad, Planner, Zoning and Special Projects